



Bear Lake's Sovereign Lands

Position Statement by Bear Lake Watch

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POSITION:

Bear Lake Watch fully supports ***responsible*** public use of the sovereign lands of Bear Lake.

- Any entity, whether government agency, business establishment or private individual who provides access to the lake is ***responsible*** for: public safety; sanitation; litter and garbage collection; physical access; establishment and enforcement of rules and protection of adjacent private property.
- Providing entities are also responsible to ***balance*** the health of the ecosystem with the potential for recreation and public enjoyment and to monitor both use and impact.
- Government agencies with oversight should ***clarify and coordinate*** land and vegetation management practices with adjacent property owners.
- Federal, state and county ***governments must provide adequate funding*** to fulfill their duty to care for the lands held in public trust for the benefit of the community, or not allow general public access.

BACKGROUND:

Bear Lake is a large natural lake, approximately 109 sq. mi. in size that straddles the Idaho-Utah border. It is approximately 20 mi. long and 7 mi. wide and sits at an elevation of 5,924 ft. It is 208 ft. deep when the lake is full (5923.65 ft. UP&L datum). The lake is impacted by over 50 agencies involving two states, two counties, two EPA regions and two US Army Corps of Engineer regions and a Federal Commission.

In 1917, the Bear Lake Reservoir Project was completed by UP&L (now PacifiCorp Energy) which diverted the entire Bear River into Bear Lake. Bear Lake is now used as a reservoir. The power company holds the storage rights for the top 21.65 ft. of Bear Lake water and has contracts to deliver that water to irrigators downstream in both Utah and Idaho. The water in Bear Lake is the public's domain until it is pumped into the power company's transmission system.

The effect of the natural wet/dry cycles on Bear Lake during the period from 1863 to 1911 were documented only by pioneer journals and early pictures, but show a 1-2 ft. zone of fluctuation over 4 to 6 year cycles. Since the completion of Lifton Pumping station in 1917, the effects of natural wet/dry climatic cycles have been magnified by Bear Lake's use as a reservoir causing unnatural and extreme fluctuations of the lake level, especially during the dry cycles. From the spring of 2000 to the fall of 2003, the lake dropped 15.68 feet.

Bear Lake is a navigable water body and the lands exposed by the lake level fluctuations are sovereign lands that are owned by the people of the respective states, held by the state in public trust and managed for the public's right of use and enjoyment by Utah's Division of Forestry, Fire and State Lands and Idaho's Department of State Lands (State Lands). This band of sovereign land extends around the lake in front of private homes, condominiums and timeshares, scout camps, agricultural areas, state parks, power company land and business ventures. The extent of sovereign land is minimal when the lake level is high but when the lake

level is low, there are thousands of acres that fall under the jurisdiction of State Lands. At a lake elevation of 5904 ft, it is estimated by PacifiCorp that there are 10,400 acres or 16 sq. mi. of sovereign land at Bear Lake. At a lake elevation of 5902 ft. that area is 11,600 acres or 18 sq. mi.

The two surrounding counties derive a substantial portion of their tax base from property taxes of the upland owners who are taxed at a higher rate based on their proximity to the lake. The local economies are also heavily dependent on recreation that is attracted by the lake. The proper management and use of the sovereign lands greatly affects the local economies.

PROBLEMS:

Current management practices of Bear Lake sovereign land do not adequately address a multitude of problems. This causes concern and frustration by upland property owners about beach access, stewardship of the exposed lake bed, and property values. Recreational users are confused about where they can access the lake and what they can or can not do. State agencies should be more concerned about water quality in conjunction with sovereign land use.

Problems include:

Rules, Regulations and Enforcement - The rules and regulations necessary to provide for the public's right of use, enjoyment and safety are not being uniformly enforced. Rules without enforcement are ineffective and are therefore of little value.

Sanitation & Trash - There are inadequate sanitation, garbage and pet excrement facilities on sovereign land. When the water is low, existing facilities are so far from the beach areas that they are seldom used, creating a potential water quality problem.

Land, Vegetation & Insect Management - Upland owners receive inconsistent messages and unclear policies from different state agencies. This includes: acceptable, desirable or not-allowed practices by upland property owners; responsibility for noxious or invasive weeds and pest control on sovereign land; and whether it is solely the state's responsibility to manage the land or if upland property owner's have rights, options, input or prerogatives in management of that adjacent land.

Public Access, Parking & Protection of Private Property - There is confusion about the location, maintenance and rules governing public access. Locations are not well signed or publicized. This leads to visitors trespassing on private lands and being uninformed about the regulations of beach use. Accesses are not well maintained, often causing vehicles to be damaged or stuck, again causing visitors to look for the better maintained private roads.

Monitoring - There is no systematic monitoring of "beach use" that is needed to justify future funding and to evaluate impacts of that use. Nor is there any organized scientific monitoring of the current status or the short and long term impacts of the public or commercial use of the lakebed.

Communication & Education - There is a lack of consistent communication between agencies and users of all types, perhaps because the agency's staff are over extended during high use times. This includes very little coordination with upland owners and ineffective means of educating visitors and recreational users.

Funding - There is not adequate funding from the state(s) to provide for safe and enjoyable public use. Many industries, e.g. recreation, tourism, agriculture and power, benefit financially by using the lake.

The states collect taxes on the use of this resource but does not return a proportional share to maintain this resource.

Multiple Jurisdictions – Differing and sometimes conflicting philosophies, laws and management practices apply in different locations. This occurs between the two USACOE regions, the two states and their respective counties and between sovereign lands and state park lands in each state. It is confusing to the public and more difficult to enforce. There is no coordinated plan to protect this resource.

SOLUTIONS:

Solutions to the management problems of Bear Lake sovereign lands will be more widely accepted and have fewer long range conflicts if input is solicited from all users and the end result is a common sense, compromise with everyone's interests seriously considered and decisions carefully communicated to all user groups.

Rules, Regulations & Enforcement

- *State Lands should obtain enforcement authority* or contract with existing law enforcement to patrol and *consistently enforce the established rules*.

Sanitation & Trash

- *Contract for the development and use of mobile sanitation/trash/pet excrement facilities* that can be used on Bear Lake beaches and be moved with the fluctuating water levels. Such facilities could be used at Bear Lake in the summer, for snowmobilers in the winter, and for other special events elsewhere.
- *Contract for additional garbage collection on busy weekends.*
- *Develop and implement a “litter control” public awareness and involvement campaign.*

Land, Vegetation & Insect Management

- *Develop a plan regarding care, maintenance and responsibility of the sovereign land* in front of private homes, condo areas and state parks that has input from homeowners, scientific and state/federal agencies. This should include land use practices and responsibility for noxious weeds, invasives and pests. Many upland owners would accept responsibility in maintaining their access to the water if there is a well communicated, written policy between EPA, USACOE and state agencies regarding what are desirable, acceptable or unacceptable land use practices, delineating what permits are necessary and streamlining the permit process

Public Access & Parking

- *Public accesses should be well marked and state maintained.* State Lands should obtain the proper permits from USACOE to improve accesses. Appropriate safe parking should also be provided and maintained. Rock based access roads would create desirable fish habitat when the water rises.

- **Create roadside “Public Access Information Stations”** on the highway or other applicable locations so people will see them as they enter the valley. These could be unmanned, have a large map and a brochure box.

Monitoring

- Design and **implement multi-disciplinary studies** to determine both the long term and short effects of large lake level fluctuations plus the actual use of the exposed lakebed. The goal should be to promote and protect a healthy aquatic and terrestrial ecosystem within the zone of fluctuation, balanced with property owners and recreational interests.

Communication & Education

- The agency will become regularly involved with committees and associations around the lake and develop better lines of communication.
- Develop and implement a public awareness and education campaign regarding responsible use of Bear Lake’s beaches with input and assistance from local entities.

Funding

- **State Lands must receive funding sufficient to fulfill its responsibilities.**
- The agency, local governments and other interests, will lobby the Governor’s Office, Director of Natural Resources Dept., the Legislature and Office of Tourism for adequate funding. The funding should be granted based on the annual need, possibly based on the projected acreage exposed each year.
- The agency will work with local entities to solicit grant funding to aid in specific projects.

Multiple Jurisdictions - While the lake crosses two states and two counties, the water, weeds, fish, recreational users and visitors do not see political boundary lines.

- Jointly **develop one CMP, common to both states**, for Bear Lake.
- **Develop common rules regarding public access between state park lands and sovereign land in both states.** This may include developing similar, coordinated park management plans. It should include a written agreement between State Parks and Sovereign Lands regarding access, rules and regulations and enforcement policies and answers the questions: Who is responsible?, What are the rules and regulations that will be enforced?, and Who are the enforcers?

CONCLUSION:

A management plan should be developed to balance what is good for Bear Lake’s ecosystem and, at the same time, protect the local economies and property values by regulating responsible use and enhancing enjoyment for all users. Good management of the public lands is important to preserving and protecting Bear Lake and its ecosystems. Countless people enjoy the intrinsic beauty of Bear Lake, some by recreating in or around the lake, some by living in the valley and others by just driving by. Communication, education and enforcement are essential to the success of the implementation of this plan. Proper state funding is crucial.